

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERIN HANUS
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 24A-UI-03105-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/13/22
Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

On March 18, 2024, QPS Employment Group Inc (employer) filed an appeal from the statement of charges dated May 9, 2023 for the first quarter of 2023. A hearing was held on April 17, 2024, pursuant to due notice. Erin Hanus (claimant) did not participate. The employer did participate through Jessica Segner. The Department's Exhibits D1, D2, and D3 were admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUES:

- I. Was the employer's protest timely?
- II. Was the employer's appeal from the statement of charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant last worked for the employer on May 25, 2022. Claimant separated from the employer on June 7, 2022. Claimant filed a claim for benefits effective November 13, 2022.

The notice of claim was mailed to the employer's address of record on November 18, 2022. The employer received the notice. The deadline to protest the notice of claim was November 28, 2022. The employer submitted a protest on November 18, 2022 to Iowa Workforce Development stating the claimant voluntarily quit June 7, 2022.

On June 1, 2023, the employer sent a letter to Iowa Workforce Development Tax Bureau requesting the claim be adjudicated after receipt of the statement of charges dated May 9, 2023 for the first quarter of 2023 ending March 31, 2023. The employer again sent a letter on September 7, 2023 requesting the claim be adjudicated. Iowa workforce Development issued a decision on October 2, 2023 (reference 02) denying benefits for the claimant but the decision found the claimant separated on May 25, 2023 and charges would only be relieved after that date. The employer did not appeal that decision. On November 30, 2023, the employer again

sent a letter requesting its charges for this claimant be removed. On March 5, 2024 the employer sent a letter to Iowa Workforce Development Tax Bureau requesting its charges for this claimant be removed. On March 18, 2024, the employer sent its appeal of the Statement of Charges mailed May 9, 2023 for the first quarter of 2023 to the Appeals bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.6(2) provides, in pertinent part:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

Iowa Code section 96.7(2)a(6) provides:

2. Contribution rates based on benefit experience.
 - a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:
 - a. The name, address and social security number of the claimant;
 - b. A reference to the decision from which appeal is taken; and,
 - c. The grounds upon which the appeal is based.
3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an

individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

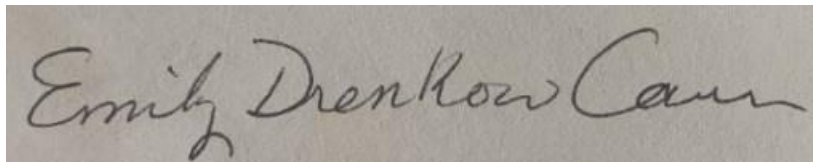
4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

In this case, the employer did receive a Notice of Claim on November 18, 2022 and submitted its response on November 18, 2022, which was prior to the due date. Employer sent a letter to the Tax Bureau of Iowa Workforce Development on March 5, 2024 requesting the charges be removed. Employer filed its appeal of the Statement of Charges mailed May 9, 2023 for the first quarter of 2023 on March 18, 2023. Therefore, the employer's appeal was filed after the due date and was not timely. While employer did send a letter on September 7, 2023 requesting the matter be adjudicated, the employer did not file an appeal to the Iowa Workforce Development decision dated October 2, 2023 (reference 02) that claimant separated on May 25, 2023 and employer was relieved of charges after that date. An employer must file a timely appeal to the representative's decision if it disagrees with the decision.

The employer has not presented credible evidence that it filed its appeal to the Statement of Charges within the required 30 - day timeframe and the employer never filed an appeal to the Iowa Workforce Development decision issued on October 2, 2023 (reference 02) that only relieved the employer of charges after a May 25, 2023 separation date.

DECISION:

The employer did not file a timely appeal to the Statement of Charges mailed to it on May 9, 2023 for the first quarter of 2023. The Statement of Charges dated May 9, 2023 for the first quarter of 2023 is AFFIRMED.

A handwritten signature in dark ink on a light-colored background. The signature reads "Emily Drenkow Carr" in a cursive, flowing script.

Emily Drenkow Carr
Administrative Law Judge

April 25, 2024
Decision Dated and Mailed

ed/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.